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**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF OREGON**

In re:

Case No. 18-63266-tmr13

**CHRISTIAN M. BUSSMANN  
DEANA M. BUSSMANN**

## Debtors.

## **TRUSTEE'S OBJECTION TO CONFIRMATION AND MOTION TO DISMISS**

Naliko Markel, Trustee, objects to confirmation of the Debtors' Chapter 13 Plan (Doc. No. 19; plan dated 11/13/18). The reasons are as follows:

**1. Feasibility:** Based on the claims filed by Betty Boresek (4-1; filed 11/15/18) and the Farm Service Agency (3-1; filed 11/14/18), Plan appears insufficiently funded to provide 100% payment to unsecured creditors as required by Plan paragraph 4(g)(2). However, per discussion at meeting of creditors, the unsecured portions of the above claims were discharged in Debtor's Chapter 12 case on August 14, 2018 (case no 12-65304; doc 168) and Debtor may file claim objection(s) in this case as appropriate to preserve Plan feasibility.

**2. The Trustee requests the following changes to the Plan:**

- a. Paragraph 2: check the 60 month box, uncheck the 36 month box, strike the current cause to extend and insert "applicable commitment period";
  - b. Paragraph 3(c): add ",2021, 2022" after "2020";
  - c. Paragraph 4(i): replace "2.0" with "3.0"; and

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MOTION TO DISMISS

d. Amend paragraph 17 to read: " Debtors shall sell or refinance the property located at 51390 Bustling Road, Bandon, OR 97411, not later than 10/31/2020 and shall pay to the Trustee from the proceeds at closing, funds sufficient to pay all creditors secured by the subject property remaining in the Plan. Secured creditors are FJ Boresek Trust and Coos County Tax Assessor. Upon a sale or refinance of the property, the Debtors may pay the balance of mortgage arrearages and other claims secured by the real property that are included in the Plan directly to the creditor, however the Trustee shall be paid the Trustee's authorized fee based upon those payments either by the Debtors or the escrow agent. Debtors shall also pay to the Trustee for distribution through the Plan, non-exempt proceeds and at minimum funds sufficient to ensure feasibility of the Plan to the extent required by the Trustee's payoff quote. The Debtors shall provide notice to all creditors and shall obtain the Trustee's permission prior to any sale or refinance and to obtain that permission, provide copies to the Trustee of a preliminary closing statement and title report. The Debtors shall provide the Trustee a copy of the final closing statement within 15 days following the close of the sale or refinance.

**3. The Trustee has identified the following deficiencies in the Debtors' paperwork:**

- a. The Statement of Financial Affairs (“SOFA”), #4, should be amended to include the 2018 year-to-date business income and Mr. Bussmann's Social Security Income; and
  - b. SOFA, #16, should be amended to include credit counseling and attorney fees paid.

**4. The Trustee requests the following documentation:**

- a. Copies of current property tax statements for the real properties listed on Schedule A;
  - b. Copies of any and all business bank accounts for two months prior to and covering the date of filing (11/22/18);
  - c. A complete copy of the Debtors' Banner Bank checking account covering the date of filing;

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- 1                   d. Copies of Ms. Bussmann's September and November pay advices for her dispatch/bus  
2                   driving job; and  
3                   e. The contact information for the Debtors' attorney, regarding the claim against Ocean  
4                   Spray listed on Schedule B, line 34.

5                   **Motion to Dismiss.** For the above reasons, the Trustee moves the Court for an order  
6                   dismissing this case.

8                   DATED this 29th day of November, 2018.

9                   NALIKO MARKEL, TRUSTEE

11                  By: /s/ Zachariah D. Conway, OSB No. 165832, for  
12                  Naliko Markel, Trustee

14                  **CERTIFICATE OF SERVICE**

16                  I hereby certify that on November 29, 2018, I served a copy of the foregoing TRUSTEE'S  
17                  OBJECTION TO CONFIRMATION AND MOTION TO DISMISS by mailing a copy of this  
18                  document by United States first-class mail, postage prepaid, and addressed to the following:

19                  Christian Bussmann and Deana Bussmann  
20                  51390 Bustling Rd.  
21                  Bandon, OR 97411

22                  Lars H. Olsen, Attorney for the Debtor(s) (via ECF)

23                  NALIKO MARKEL, TRUSTEE

24                  By: /s/ Aaron Benson  
25                  Aaron Benson  
26                  Pre-Confirmation Case Analyst

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